

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

BROOKLYN SOCIETY FOR THE  
PREVENTION OF CRUELTY TO CHILDREN  
(BSPCC); BSPCC FOUNTAIN LTD.; ANN  
BINDMAN; RICHARD ARKWRIGHT;  
GEORGE SPANAKOS; LOWEL RUBIN; JAMES  
HAMERSCHLAG; and MARY J. MITCHEL,

Defendants.

STATE OF NEW YORK )  
 )ss.  
COUNTY OF KINGS )

ISABEL D. PASCALE, an adult, having first been duly sworn, deposes and says:

1. I am the Executor under the Last Will and Testament of Spiros Valentis, the Plaintiff in this action. I received Letters Testamentary on December 14, 2009. A copy of the certified Letters Testamentary are attached hereto.
2. Although my Probate Petition was submitted to the Surrogate's Court in December 2008, Letters Testamentary were not issued as the decedent's distributees resided in Greece and initially appeared by an attorney here in New York. Subsequently the distributees' attorney filed to be relieved as counsel as the distributees refused to cooperate with their attorney. This

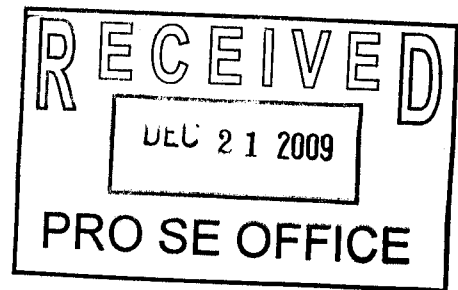
The court will adjourn consideration of Judge Bloom's Report and Recommendation for a period of thirty (30) days to permit the parties an opportunity to file a stipulation of discontinuance with the court.

File No. 08-CV-2741 (ARR) (LB)

S. of d. S/Judge Ross, USOS

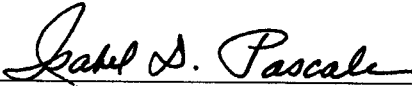
# AFFIDAVIT

12/29/09.  
cc: parties



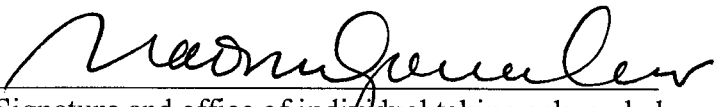
resulted in delays as the Surrogate's Court gave the distributees additional time to obtain new counsel, which they did not do.

3. While I was awaiting my appointment as Executor, I entered into settlement discussions with the Defendant, and we reached an agreement to settle this matter on November 17, 2009, upon payment to the Estate of Spiros Valentis of the sum of \$10,000. A copy of the letter from Marc J. Monte of Wingate, Kearney & Cullen, LLP dated November 18, 2009, indicating this settlement is attached to this affidavit showing we were in the process of finalizing this settlement before the deadline of November 25, 2009.
4. Due to the small sum of money this lawsuit was settled for, it would be very costly for the estate to retain counsel familiar with Federal Court filings to appear on my behalf as Executor for the sole purpose of settling this matter.
5. I have read and understand the Report and Recommendation ordered by the United States Magistrate Judge Lois Bloom, dated: December 14, 2009. I am herewith filing written objections to the court's recommendation that the action be dismissed.
6. I respectfully ask permission of the court to allow me to settle this case with the Defendant for the sum of \$10,000.
7. I attach a copy of the General Release I executed on December 15, 2009, prior to receiving the Report and Recommendation of the Court, indicating the parties' mutual agreement and desire to finalize this case.

  
ISABEL D. PASCALE

State of New York     )  
                                  ) ss:  
County of (Kings)

On the 21<sup>st</sup> day of December in the year 2009 before me the undersigned, personally appeared ISABEL D. PASCALE personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual acted, executed the instrument.

  
(Signature and office of individual taking acknowledgement)

NAOMI O. GARDNER  
Notary Public, State of New York  
No. 029A4938228  
Qualified in Kings County  
Commission Expires 6-27-2010

C20 (Rev. 1/07)

Certificate# 4795

**SURROGATE'S COURT OF THE STATE OF NEW YORK  
KINGS COUNTY**

File #: 2008-4982

**CERTIFICATE OF APPOINTMENT OF EXECUTOR(S)**

IT IS HEREBY CERTIFIED that Letters in the estate of the Decedent named below have been granted by this court, as follows:

Name of Decedent: **Spiros Valentis**  
aka Spiros Valentis J.U.D

Date of Death: **December 11, 2008**

Domicile of Decedent: **Kings County**

Fiduciary Appointed: **Isabel D Pascale**  
Mailing Address: 75 Henry Street  
Brooklyn NY 11201

Type of Letters Issued: **LETTERS TESTAMENTARY**

Letters Issued On: **December 14, 2009**

Limitations: **NONE**

and such Letters are unrevoked and in full force as of this date.

**Dated: December 17, 2009**

IN TESTIMONY WHEREOF, I have hereunto set my hand  
and affixed the seal of the Kings County Surrogate's Court  
at Brooklyn, New York.

WITNESS, Hon. Diana A Johnson, Judge of the Kings  
County Surrogate's Court.

*Stephen Chopiga*

Stephen Chopiga, Chief Clerk  
Kings County Surrogate's Court

*This Certificate is Not Valid Without the Raised Seal of the Kings County Surrogate's Court*

# WINGATE, KEARNEY & CULLEN, LLP

ATTORNEYS AND COUNSELLORS

KEVIN M. KEARNEY  
PETER N. ZOGAS  
RICHARD J. CEA

ESTABLISHED IN 1864  
45 MAIN STREET - SUITE 1020  
BROOKLYN, NEW YORK 11201-9243  
TELEPHONE (718) 852-5900  
FACSIMILE (718) 852-8188

GEORGE W. WINGATE (1864-1928)  
JOHN H. KEARNEY (1941-1995)  
HENRY J. CULLEN (1864-1898)

SENIOR COUNSEL:  
MARC J. MONTE

LONG ISLAND OFFICE  
445 BROAD HOLLOW ROAD  
MELVILLE, NEW YORK 11747  
TELEPHONE (631) 694-5500

COLLEEN J. LEFFERTS \*  
JAMES E. MOORE \*\*  
DANIELLE J. NICHOLSON

\* ALSO ADMITTED IN CONNECTICUT  
\*\* ALSO ADMITTED IN NEW JERSEY

OF COUNSEL  
DAVID F. SAPPE

November 18, 2009

VIA FACSIMILE (718) 596-0619 [1 PAGE]

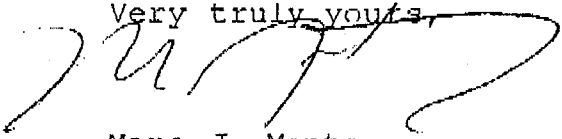
Naomi C. Gardner, P.C.  
142 Joralemon Street, Ste. 5A  
Brooklyn, New York 11201

Re: Spiros Valentis v. BSPCC  
EDNY Docket No. 08-cv-2741 (AAR) (LB)

Dear Counselor:

This letter will serve to memorialize the agreement in principle reached yesterday, 11/17/09 whereby our client will be released from all claims by Mr. Valentis, his heirs and assigns for a payment of \$10,000.00. Our client will issue a 1099 and will not be responsible for any tax matters which may result from this payment, and seek to have the settlement completed by December 1, 2009. Please forward the name of the party to whom the check will be made out to. This office will draft a release for execution.

Very truly yours,

  
Marc J. Monte

/mjm

GENERAL RELEASE

TO ALL TO WHOM THESE PRESENTS SHALL COME OR MAY CONCERN, KNOW THAT:

THE ESTATE OF SPIROS VALENTIS, as RELEASOR, in consideration of the sum of TEN THOUSAND (\$10,000.00) DOLLARS received from BROOKLYN SOCIETY FOR THE PREVENTION OF CRUELTY TO CHILDREN, receipt whereof is hereby acknowledged, releases and discharges the BROOKLYN SOCIETY FOR THE PREVENTION OF CRUELTY TO CHILDREN, BSPCC FOUNDATION, LTD., ANN BINDMAN, RICHARD T. ARKWRIGHT, GEORGE SPANAKOS, LOWEL RUBIN, JAMES HAMMERSCHLAG and MARY J. MITCHELL as RELEASEES, RELEASEES' heirs, executors, administrators, successors, assigns, employees, officers, directors, agents, servants, subsidiaries, affiliates and representatives for all actions, causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, extents, executions, claims, and demands whatsoever, in law, admiralty or equity, which against the RELEASEES, the RELEASOR, RELEASOR'S heirs, executors, administrators, successors and assigns ever had, now have or hereafter can, shall, or may, have for, upon, or by reason of any matter, cause or thing whatsoever from the beginning of the world to the day of the date of this RELEASE, including but not limited to the legal proceeding pending in the United States District Court for the Eastern District of New York under Docket Number 08-cv-2741, as well as any claims for wages, costs or attorneys' fees that may be brought under the Employee Retirement Income Security Act ("ERISA"), also known as 29 U.S.C.S. 1001.

The words "RELEASOR" and "RELEASEE" include all releasors and all releasees under this RELEASE.

This RELEASE may not be changed orally and payments made hereunder shall not be construed as an admission of liability on the part of the RELEASEES.

IN WITNESS WHEREOF, the RELEASOR has hereunto set RELEASOR'S hand and seal on the 15<sup>th</sup> day of December 2009.

STATE OF NEW YORK )

COUNTY OF Kings )

ss.:

Isabel D. Pascala  
Isabel D. Pascala, Executor  
Estate of Spiros Valentis

On December 15, 2009, before me personally came Isabel D. Pascala to me known, and known to me to be the individual described in, and who executed the foregoing RELEASE, and duly acknowledged to me that he/she executed same.

Naomi C. Gardner  
Notary Public

NAOMI C. GARDNER  
Notary Public, State of New York  
No. 02GA4938228  
Qualified in Kings County  
Commission Expires 6-27-2010

**AFFIDAVIT OF SERVICE**

ELLEN M. HEPPT, being duly sworn deposes and says:

I am not a party to this action; I am over the age of 18 years and reside in the City of New York.

That on December 21, 2009, I served the within

**AFFIDAVIT**

upon the attorney(s) for the defendant(s):

WINGATE KEARNEY & CULLEN, LLP  
45 Main Street, Suite 1020  
Brooklyn, NY 11201

in this action by depositing a true copy of same in a post-paid, properly addressed wrapper, in an official depository under the exclusive care and custody of the United States Postal Service in the State of New York, at the address designated by said individual(s) by regular mail.

  
\_\_\_\_\_  
ELLEN M. HEPPT

Sworn to before me this  
21<sup>st</sup> day of December, 2009

  
\_\_\_\_\_  
Notary Public

NAOMI C. GARDNER  
Notary Public, State of New York  
No. 02GA4938228  
Qualified in Kings County  
Commission Expires 6-27-2010 2010



USDC, EDNY COURT  
STATE OF NEW YORK COUNTY OF

Index No.

Year

SPIROS VALENTIS

Plaintiff,

- against -

BROOKLYN SOCIETY FOR THE PREVENTION OF CRUELTY TO CHILDREN (BSPCC), et al.,

Defendants.

AFFIDAVIT

ISABEL D. PASCALE, PRO SE

XXXXXXXXXXXXXXXXXXXXX

Attorney(s) for

Office and Post Office Address, Telephone

75 Henry Street, #21L  
Brooklyn, New York 11207

To

Signature (Rule 130-1.1-a)

Print name beneath

Service of a copy of the within is hereby admitted.

Dated:

Attorney(s) for

PLEASE TAKE NOTICE

☒ NOTICE OF ENTRY

that the within is a (certified) true copy of a  
duly entered in the office of the clerk of the within named court on

☐ NOTICE OF SETTLEMENT

that an order  
will be presented for settlement to the HON.  
within named Court, at  
on at M.

of which the within is a true copy  
one of the judges of the

Dated:

Yours, etc.